

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7693

BILL NUMBER: HB 1543

NOTE PREPARED: Jan 23, 2003

BILL AMENDED:

SUBJECT: Wetlands.

FIRST AUTHOR: Rep. Weinzapfel

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X

X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: This bill establishes a permit program for the filling, dredging, and excavating of certain wetlands.

Effective Date: Upon passage; July 1, 2003.

Explanation of State Expenditures: The proposal contains a number of rulemaking directives. Some of the directives are already included in the rulemaking that was preliminarily adopted by the Water Pollution Control Board, while other rulemaking directives are new. Development of rulemaking for those portions that were already preliminarily adopted would not have a fiscal impact, whereas new rulemaking directives would have staff costs associated with rule development. Some expenses for implementing the programs have already been accounted for under the preliminarily adopted rule, while new directives could require additional staff resources.

The proposed IC 13-15-1-2(b) directs the Water Pollution Control Board to establish requirements for the issuance of permits for wetlands activity and to establish procedures for operation of the up-front wetlands mitigation program. Additionally, the proposed IC 13-15-3-2(b) requires that a permit for wetlands activity may be issued for any period determined by the department to be appropriate. IC 13-18-3-1(b) directs the Water Board to adopt rules to establish the period in which IDEM must act on an application for certification under Section 401 of the Clean Water Act. These provisions are included in the preliminarily adopted rule. All rulemaking requirements listed in IC 13-18-22-6 are also in the preliminarily adopted rule.

All rulemaking requirements listed in IC 13-18-22-4 are in the preliminarily adopted rule with the exception of IC 13-18-22-4(1)(A), pertaining to an application form that includes the wetland categorization. IDEM will incur additional administrative costs associated with rulemaking and implementing the program. These costs are indeterminable at this point.

IC 13-18-22-7 directs the Water Board to adopt a rule before September 1, 2004, to establish procedures to:

- (1) designate specific real property as outstanding state wetlands; and
- (2) remove real property from the designation as outstanding state wetlands.

This provision is not included in the preliminarily adopted rule. IDEM will incur additional administrative costs associated with rulemaking and implementing the program. These costs are indeterminable at this point.

IC 13-18-22-7(c)(2), stipulates that if real property is designated as outstanding state wetlands, IDEM must compensate the owner of the real property for the loss of development rights to the property; and, if the designation results in a reduction of the property tax assessment of the real property, IDEM must pay to the county an amount equal to the resultant reduction of property taxes due and payable on the property during the year. The impact of this provision would depend on the property that is designated as an outstanding state wetlands.

IC 13-18-22-8 directs the Water Pollution Control Board to adopt a rule, before September 1, 2004, that establishes procedures for operation of a wetland mitigation program. Portions of the rule requirements are in the preliminarily adopted rule. IC 13-18-22-8(a)(1)(E) and IC 13-18-22-8(b) refer to a wetland restoration fund for general permit mitigation. The fund would be used to create, restore, or enhance replacement wetlands. If IDEM hired one FTE Environmental Manager at \$61,238 per year and two Environmental Scientist 3 at \$51,407 per year, total staff costs for establishing and implementing a wetland restoration program would be \$113,000 annually.

IC 13-18-22-9 directs IDEM to create and maintain a registry of newly formed wetlands. The provision states that IDEM may charge a fee of not more than \$100 for registration in the registry and a fee of not more \$50 per year to maintain the registration. Revenue from fees must be used for the operation of the registry. The number of registrations is indeterminable. IDEM could experience an increase in administrative costs (including an increase in staff) to implement the registry. Administrative costs would depend on the number and nature of the registrations. The bill provides fees for entry into the registry: a \$100 registration fee and \$50 annual fee. Whether revenue collections would be sufficient to cover administrative costs is indeterminable.

The noncode SECTION 13 directs IDEM to develop and present a nonrule policy document to the Water Board, before July 1, 2003, for filing an application for an individual permit for wetland activity that occurs after June 30, 2003, and before the effective date of the rules. The noncode section outlines a detailed list of what is to be included in the nonrule policy document. Many of these provisions have been addressed in the preliminarily adopted rule, except for the categorization of wetlands. Developing a nonrule policy on this provision will increase administrative expenses by an indeterminable amount.

The noncode SECTION 13 also directs IDEM to develop and present a nonrule policy document to the Water Board, before September 1, 2003, that establishes procedures for up-front mitigation use of newly formed wetlands as compensatory mitigation. Since these provisions have not been addressed in the preliminarily adopted rule, developing a nonrule policy on these provisions will have a fiscal impact upon IDEM staff resources.

The noncode provision under SECTION 13(e) requires IDEM to report to the EQSC on the development of the nonrule policy documents and the rules. Any costs associated with presenting this information to the EQSC would be absorbed with existing staff resources.

The funds and resources required by the proposal could be supplied through a variety of sources, including

the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of September 2002, IDEM reported 894 full-time employees with 155 vacancies for a total of 1,071. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: IC 13-18-22-8(b)(1) establishes a wetland restoration fund for receipt of payments for mitigation. The amount of revenue that would be generated by mitigation payments is indeterminable.

IDEM may charge not more than \$100 for registration in a registry of newly formed wetlands and a fee of not more than \$50 per year to maintain registration. The amount of revenue that will be generated by this provision is also indeterminable.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IDEM

Local Agencies Affected:

Information Sources: IDEM

Fiscal Analyst: Bernadette Bartlett, 317-232-9586